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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,980	12/30/2005	Hiroshi Yoshii	283399US0PCT	3529

22850 7590 02/04/2009
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

SULLIVAN, DANIELLE D

ART UNIT	PAPER NUMBER
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1616

NOTIFICATION DATE	DELIVERY MODE
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02/04/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/562,980	Applicant(s) YOSHII ET AL.	
	Examiner DANIELLE SULLIVAN	Art Unit 1616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 13-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/12/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-23 are pending. Claim 23 was added in the amendment filed 10/17/2008. Claims 13-22 are withdrawn for being directed to a non-elected invention. Claims 1-12 and 23 are currently under examination.

Withdrawn rejections

Applicant's amendments and arguments filed 10/17/2008 are acknowledged and have been fully considered. Any rejection and/or objection not specifically addressed below are herein withdrawn.

Response to Arguments

Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection. Applicant's amendments necessitated the new rejection as herein set forth.

Claim Objections

Claim 23 is objected to because of the following informalities: "nicosulferon" should be spelled as "nicosulfuron". Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-12 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maeda (US 5,830,827).

Applicant's Invention

Applicant claims an herbicidal composition comprising an herbicidal sulfonylurea compound or its salt, and an alkoxylated glyceride, wherein when said herbicidal sulfonylurea is nicosulfuron, said herbicidal composition does not contain polyoxyethylene hydrogenated castor oil. Claim 23 specifies the sulfonylurea is not nicosulfuron. Claims 2-4 further limit the alkoxylated glyceride to being selected from polyoxyethylene hydrogenated castor oil, polyoxyethylene glyceryl, etc. Claims 5 and 6 limit the sulfonylurea to being selected from flazasulfuron, foramsulfuron, nicosulfuron, rimsulfuron, trifloxysulfuron and tritosulfuron. Claim 7 specifies the ratio of sulfonylurea to alkoxylated glyceride is from 16:1 to 1:6000. Claim 8 specifies the composition comprises 0.1-95 parts by weight of sulfonylurea, 0.1-94.9 parts by weight of the alkoxylated glyceride, and the rest being additives. Claim 9 further comprises one or more other herbicide compounds. Claims 10 and 12 further add a coadjuvant selected from chelating agent, fertilizer comprising nitrogen, or a combination thereof. Claim 11 further comprises one of more other herbicides and a coadjuvant.

Determination of the scope and the content of the prior art
(MPEP 2141.01)

Maeda teaches a granular herbicidal composition comprising flazasulfuron, together with a chemical stabilizer and a carrier (coadjuvants) (abstract). If necessary the composition may further include various formulates for contributing to the improvement in the physical properties of the granular composition (column 2, lines 28-35). These formulates include nonionic surfactants such as polyoxyethylene glycerin fatty acid ester, fatty acid polyglyceride and polyoxyethylene hydrogenated castor oil (column 2, lines 51-60). The composition may contain other herbicides alone or as a mixture of two or more (column 3, line 23 through column 4, line 63). Based on 100 parts by weight the amount of flazasulfuron is from 0.02-1 parts by weight; the chemical stabilizer is 0.1-10; the carrier is from 50-99.88; and the amount of surfactants is from 0.1 to 10 parts by weight (column 5, lines 1-19).

Ascertainment of the difference between the prior art and the claims
(MPEP 2141.02)

Maeda does not disclose a specific example comprising a surfactant. However, one of ordinary skill would have been motivated to include a nonionic surfactant selected from polyoxyethylene glycerin fatty acid ester, fatty acid polyglyceride and polyoxyethylene hydrogenated castor oil because the formulations are taught to comprise 0.1-10 parts by weight of surfactants.

Finding of prima facie obviousness
Rationale and Motivation (MPEP 2142-2143)

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It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Maeda to further include a nonionic surfactant selected from polyoxyethylene glycerin fatty acid ester, fatty acid polyglyceride and polyoxyethylene hydrogenated castor oil. One would have been motivated to include these surfactants because Maeda teaches that these surfactants contribute to the improvement of the physical properties of the formulation.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Danielle Sullivan whose telephone number is (571) 270-3285. The examiner can normally be reached on 7:30 AM - 5:00 PM Mon-Thur EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann Richter can be reached on (571) 272-0646. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Danielle Sullivan
Patent Examiner
Art Unit 1616

/Mina Haghighatian/
Primary Examiner, Art Unit 1616